

AMENDMENT
Serial Number: 10/086,518
Filing Date: February 28, 2002
Title: HINGED MOUNTING FOR MULTIPLE STORAGE DRIVES

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REMARKS

Claims 9, 12, 16, 20, 22 and 23 are amended herein, and no claims are added or cancelled. As a result, claims 9-14, 16-18, and 20-23 are now pending in the application. This Amendment amends independent claims 9 and 12 to include features of dependent claims 22 and 23, respectively, and claims 22 and 23 are amended accordingly.

The Office Action dated May 6, 2003 includes: i) a rejection of claims 16, 17, 20 and 21 under 35 U.S.C §112, second paragraph; and ii) a rejection of claims 9-14, 16-18, 20-23 under 35 U.S.C. §102(b) in view of U.S. Patent 5,774,337 ("Lee").

§112 Rejection of the Claims

The present Amendment corrects the dependencies of claims 16, 17, 20 and 21, thus obviating the rejection. Accordingly, withdrawal of the §112, second paragraph rejection is respectfully requested.

§102 Rejection of the Claims

The §102(b) rejection of claims 9-14, 16-18 and 20-23 in view of the Lee patent is respectfully traversed.

It is respectfully submitted that the Lee device does not disclose "a bracket for mounting two or more devices, said mounted devices oriented in a first plane; wherein said mounted devices comprise a first device having a front surface oriented in the first plane and a back surface parallel to the front surface," as recited in claims 9 and 12, respectively. The remaining claims are submitted to be allowable by virtue of their dependency to claims 9 and 12.

Accordingly, withdrawal of the rejection is respectfully requested.

Dictionary Definition of "Bracket"

In the Amendment following the first Office Action it was suggested that the Lee device consists of a two-part hinged chassis—that is, the main chassis 30 and subchassis 32 shown in Figure 5—rather than a chassis and a bracket. The second Office Action of January 24, 2003 disagreed with this line of reasoning and introduced a dictionary definition for the word "bracket." In an effort to mitigate the effect of prosecution history estoppel due to the

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introduction of the dictionary definition during prosecution, the Preliminary Amendment of April 24, 2003 mentioned that other dictionaries may also contain definitions which aptly describe the term "bracket." For example, another definition of "bracket" which may be appropriate is "a projecting framework or arm designed to support weight."¹ Upon further analysis and reflection, it is agreed that some definitions of "bracket" may encompass the subchassis 32 portion of the Lee device. Accordingly, the previous remarks regarding the term "bracket" in the Amendment of October 24, 2002 are hereby retracted. However, it is respectfully maintained that the structural recitations of the claimed invention are patentably distinct from the Lee device.

¹ The New Merriam-Webster Dictionary (copyright 1989, Merriam-Webster, Inc.).

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Conclusion

The pending claims are respectfully submitted to be in condition for allowance. Accordingly, notification to that effect is earnestly requested. In the event that issues arise in the application which may readily be resolved via telephone, the Examiner is kindly invited to telephone the Gateway, Inc. attorney at (605)232-1967 to facilitate prosecution of the application.

It is believed that the attached Fee Transmittal attends to the appropriate fees owed for the present filing. However, if necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-0439.

Respectfully submitted,

Date: July 11, 2003

By



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